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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

IN RE THE GENERAL ADJUDICATION
OF ALL RIGHTS TO USE WATER IN
THE GILA RIVER SYSTEM AND
SOURCE

W-1 (Salt)
W-2 (Verde)
W-3 (Upper Gila)
W-4 (San Pedro)
(Consolidated)

Contested Case No. W1-11-3318

**ARIZONA DEPARTMENT OF
WATER RESOURCES' MEETING
REPORT**

(Special Master Susan Ward-Harris)

CONTESTED CASE NAME: *In re Bowers*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report

DESCRIPTIVE SUMMARY: The Arizona Department of Water Resources ("ADWR") hereby files the Meeting Report requested by the Court by orders filed February 22, 2018 and April 12, 2018.

NUMBER OF PAGES: Five and nine-page attachment

DATE OF FILING: May 8, 2018.

1 As directed in the Special Master's Case Management Order filed February 22, 2018
2 and the Supplemental Case Management Order filed April 12, 2018, ADWR hereby files
3 its Meeting Report pursuant to Rules for Proceeding before the Special Master, Rule
4 8.02[1][c], addressing the results of the meeting between ADWR, the claimant and
5 objectors for this contested case. A copy of ADWR's Meeting Report is being posted to
6 ADWR's web site.

7 **MEETING DETAILS**

8 The meeting took place at the ADWR office located at 1110 W. Washington Street,
9 Phoenix, Arizona 85007 on May 1, 2018 at 10:00am. Present at the meeting were Jeff
10 Trembly and David Keadle representing ADWR, Jay Tomkus on behalf of the Yavapai-
11 Apache Nation ("YAN"), Jeff Heilman and Rodney Held representing the Salt River Project
12 ("SRP"), and claimant Russell Richardson and friend Rod Matheson. Appearing
13 telephonically were Janet Miller on behalf of ADWR, Joe Sparks on behalf of the San
14 Carlos Apache Tribe ("SCAT") and the Tonto Apache Tribe ("TAT"), and Thomas Murphy
15 on behalf of the Gila River Indian Community ("GRIC").

16 **MEETING OUTCOMES**

17 An agreement on the objections to Watershed File Report ("WFR") 115-04-ADB-
18 009 has not been reached. However, the parties made substantial progress in discussing
19 what actions should be taken next.

20 In order to resolve the objections filed on behalf of the SCAT and the TAT, Mr.
21 Sparks requested that the claimant provide ADWR with documentation showing the
22 complete chain of title from the original land owner to the current land owner. In addition,
23 Mr. Sparks requested the following information: (1) GPS coordinates of the locations of the
24 well and instream pump; and (2) a survey describing the subject parcel, irrigated lands, and
25 the domestic use, with the stipulation that the irrigated lands could be described as "within
26

1 the west half of the subject parcel,” since the parcel was only approximately two acres in
2 size. Mr. Richardson stated during the meeting that he believed he had a survey of the
3 subject parcel, but after the meeting told ADWR staff, during ADWR’s site visit to collect
4 GPS coordinates, that he did not have a survey.

5 Mr. Heilman (SRP) and Mr. Tomkus (YAN) both stated that their clients did not
6 contest the chain-of-title. Mr. Heilman further stated that SRP would waive its objections
7 and accept the quantity and priority date listed for Potential Water Right (PWR) OT001 in
8 WFR 115-04-ADB-009 (*i.e.*, 7.0 acre-feet per annum on 1.3 acres with a priority date of
9 1913) if the other objectors would also waive their objections. Mr. Tomkus stipulated to
10 the information in the WFR as long as the stipulation was not binding or set precedent in
11 other cases.

12 During the meeting, Mr. Richardson indicated that naming the contested case *In Re*
13 *Bowers* was worrisome to Mrs. Bowers because she did not believe that she had any interest
14 in the subject property any longer. It was suggested that Mr. Richardson request that Mrs.
15 Bowers assign the subject Statement of Claimant (39-4326) to him and that the Special
16 Master then be asked to rename the contested case.

17 **ATTACHMENTS**

18 On May 3, 2018, Mr. Sparks filed a statement with the court reiterating that the chain
19 of title from the original appropriator of the water used on the land to the current landowner
20 appeared to be incomplete. Attached to this filing was a copy of the original patent issued
21 to Mr. William Row including the subject parcel. As a courtesy, Mr. Sparks agreed to
22 search certain files and provide copies of any documents relevant to the chain of title to
23 ADWR. A copy of “San Carlos Apache Tribe and Tonto Apache Tribe’s Statement of
24 Position Regarding Chain of Title to Property in this Contested Case” is included in
25 **Attachment A**, as directed by the Special Master.
26

1 ADWR also prepared three more attachments to assist the parties in reaching a
2 resolution of the objections that were filed. **Attachment B** is a map prepared by the office
3 of the State Water Commissioner titled “Gila River Determination” displaying the results
4 of a 1921 survey of irrigated lands on Aravaipa Creek, which includes the subject parcel.
5 The map shows irrigated lands in the Southwest Quarter of Section 34, T6S, R17E and the
6 Northwest Quarter of Section 3, T7S, R17E associated with the name “W.H. Row.”
7 Records in this case indicate that W. H. Row was the original homesteader of the subject
8 land.

9 **Attachment C** is a copy of the Pinal County Assessor map used to draw the
10 boundaries of WFR 115-04-ADB-009 shown in Volume 9 of the 1991 San Pedro River
11 Hydrographic Survey Report (HSR). Those boundaries include the subject parcel.

12 **Attachment D** shows the current parcel boundaries and ownership as provided by
13 the Pinal County Assessor’s office in March 2017, together with the location of a well and
14 instream pump that provide water for use on the subject parcel. Note that the parcel
15 boundaries supplied by Pinal County do not appear to align well with the boundaries shown
16 on the WFR map contained in Volume 9 of the 1991 San Pedro HSR.

17 **LOCATION OF WELLS**

18 ADWR conducted a site visit of the subject parcel and collected GPS coordinates for
19 the well and instream pump depicted on **Attachment D**. As directed by the Special Master,
20 ADWR determined that the well that supplies water for domestic use is located within the
21 subflow zone for Aravaipa Creek.

22 **DATE FOR NEXT MEETING**

23 Within the next thirty (30) days, the objectors should provide ADWR with a
24 statement indicating whether or not they believe sufficient data has been provided to resolve
25
26

1 their objections. If the objectors believe additional data is needed, they should identify this
2 data.

3 The next meeting in this matter will take place at the ADWR office on a date and
4 time to be scheduled by ADWR upon receipt of the information referenced above.

5 **DATED** this 8th day of May, 2018.

6 ARIZONA DEPARTMENT OF WATER
7 RESOURCES

8 

9 Kimberly R. Parks, Deputy Counsel
10 Janet L. Miller, Deputy Counsel

11 **ORIGINAL** of the foregoing
12 sent by first-class mail on
13 May 8, 2018, to:

14 Clerk of the Maricopa Superior Court
15 Attn: Water Case
16 601 W. Jackson Street
17 Phoenix, Arizona 85003

18 **COPIES** of the foregoing
19 sent by first-class mail on
20 May 8, 2018, to:

21 Special Master Susan Ward-Harris
22 Maricopa County, Central Court Building
23 201 West Jefferson Street, Suite 3A
24 Phoenix, AZ 85003-2205

25 **COPIES** of the foregoing sent by
26 first-class mail on May 8, 2018 to
all parties on the court-approved mailing list
for Contested Case No. W1-11-3318.



ATTACHMENTS

1 **THE SPARKS LAW FIRM, P.C.**
2 ATTORNEYS
3 7503 FIRST STREET
4 SCOTTSDALE, ARIZONA 85251
 TELEPHONE (480) 949-1339

5 Joe P. Sparks, Arizona State Bar No. 002383
 joesparks@sparkslawaz.com
6 Laurel A. Herrmann, Arizona State Bar No. 025623
 laurel@sparkslawaz.com
7 Attorneys for the San Carlos Apache Tribe
8 and Tonto Apache Tribe

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10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
11 **IN AND FOR THE COUNTY OF MARICOPA**

12 IN RE: THE GENERAL
13 ADJUDICATION OF ALL RIGHTS
14 TO USE WATER IN THE GILA
 RIVER SYSTEM AND SOURCE

Civil Nos.
W-1 (Salt)
W-2 (Verde)
W-3 (Upper Gila)
W-4 (San Pedro)
(Consolidated)

Contested Case No. W1-11-3318

**SAN CARLOS APACHE TRIBE AND
TONTA APACHE TRIBE'S
STATEMENT OF POSITION
REGARDING CHAIN OF TITLE TO
PROPERTY IN THIS CONTESTED
CASE**

22
23 **CONTESTED CASE NAME:**

In re Bowers

24 **DESCRIPTIVE SUMMARY:**

Pursuant to the Supplemental Case Management Order filed by the Special Master on April 12, 2018, the San Carlos Apache Tribe and the Tonto Apache Tribe give their statement of position regarding the chain of title to property in this contested case.

1 **STATEMENTS OF CLAIMANT #:** 39-07-12676, 39-63614 (San Carlos Apache Tribe)
2 39-50058, 39-12675 (Tonto Apache Tribe)

3 **NUMBER OF PAGES:** 3

4 **DATE OF FILING:** May 3, 2018

5 Pursuant to the Supplemental Case Management Order filed by the Special Master on
6 April 12, 2018, the San Carlos Apache Tribe and the Tonto Apache Tribe (“Tribes”) give
7 their statement of position regarding the chain of title to property in this contested case.

8 The original claimant, Anthon G. Richardson, in his Statement of Claim for Registry
9 No. 36-59979 filed on January 21, 1978, and in successive filings, failed to provide the
10 appropriate legal instrument to show conveyance of title to the parcel of land for which he
11 claimed a water right appurtenant, from Mr. William Row, the holder of the original U.S.
12 Patent 4—1003, dated March 24, 1921 (attached here as Exhibit A) to Mr. Anthon G.
13 Richardson, or any other owner who took title between Mr. William Row and Mr. Anthon G.
14 Richardson. Counsel for the Tribes have reviewed the files related to the claims in this matter
15 available on the Arizona Department of Water Resources (“ADWR”) website, and have been
16 unable to locate any such legal instruments. It is the position of the Tribes that the burden of
17 proof rests on the current claimants to provide a complete chain of title from the claimed
18 priority date to the present. Nevertheless, counsel for the Tribes, as a courtesy to the current
19 claimants and ADWR, have agreed to search certain files accessible to counsel to determine
20 whether any instruments relevant to the question of chain of title in this matter can be located
21 in those files. If any such instruments are located, counsel will provide them to ADWR.

1 Counsel's offer to extend this courtesy does not, however, relieve current claimants of the
2 burden of proof.

3
4 Respectfully submitted this 3rd day of May, 2018.

5 THE SPARKS LAW FIRM, P.C.

6
7 By 
8

9 Joe P. Sparks

10 Laurel A. Herrmann

11 *Attorneys for the San Carlos Apache Tribe and*
12 *Tonto Apache Tribe*

13
14 ORIGINAL of the foregoing mailed this
15 3rd day of May, 2018 to:

16 Kimberly R. Parks and Janet L. Miller
17 Arizona Department of Water Resources
18 P. O. Box 36020
19 Phoenix, AZ 85067

20 COPIES of the foregoing mailed this 3rd day of May, 2018,
21 to all people listed on the Court Approved Mailing List
22 for Contested Case No. W1-11-3318 dated February 22, 2018.


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EXHIBIT A

P A T E N T

4--1003

Phoenix 022963

THE UNITED STATES OF AMERICA

To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Register of the Land Office at Phoenix, Arizona, has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1902, "To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of William H. Row has been established and duly consummated, in conformity to law, for the

northeast quarter of the southwest quarter and the south half of the southwest quarter of Section thirty-four in Township six south of Range seventeen east of the Gila and Salt River Meridian Arizona, containing one hundred twenty acres, according to the Official Plat of the Survey of the said Land, returned to the General Land Office, by the Surveyor-General:

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said Claimant the tract of Land above described;

TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts and there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, WOODROW WILSON, President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.)

GIVEN under my hand, in the District of Columbia, the Eighteenth day of October in the year of our Lord one thousand nine hundred and twenty and of the Independence of the United States the one hundred and forty-fifth.

By the President: Woodrow Wilson,

(SEAL)

By H. F. LeRoy Secretary,

L. Q. C. Lamar, Recorder of the General Land Office.

Recorded: Patent No. 777844

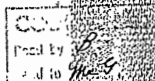
Filed and recorded at request of W. H. Row, Mar 24, 1921 9:00 A. M.

E. H. Myers

Deputy.

JARY A. McGON

Recorder



ATTACHMENT B

STATE WATER COMMISSION GILA RIVER DETERMINATION ARAVAIPA CREEK

T6S.R17E&T7SR16&17E.G&S.R.B.&M.

PINAL COUNTY ARIZONA

MAP
OF SURVEYS SHOWING IRRIGATED LANDS UNDER
DITCHES TAKING WATER FROM
GILA RIVER OR TRIBUTARIES
DISTRICT
NO. 3.

SURVEYED 1921

SCALE
1000 0 1000 2000 3000 4000
FEET

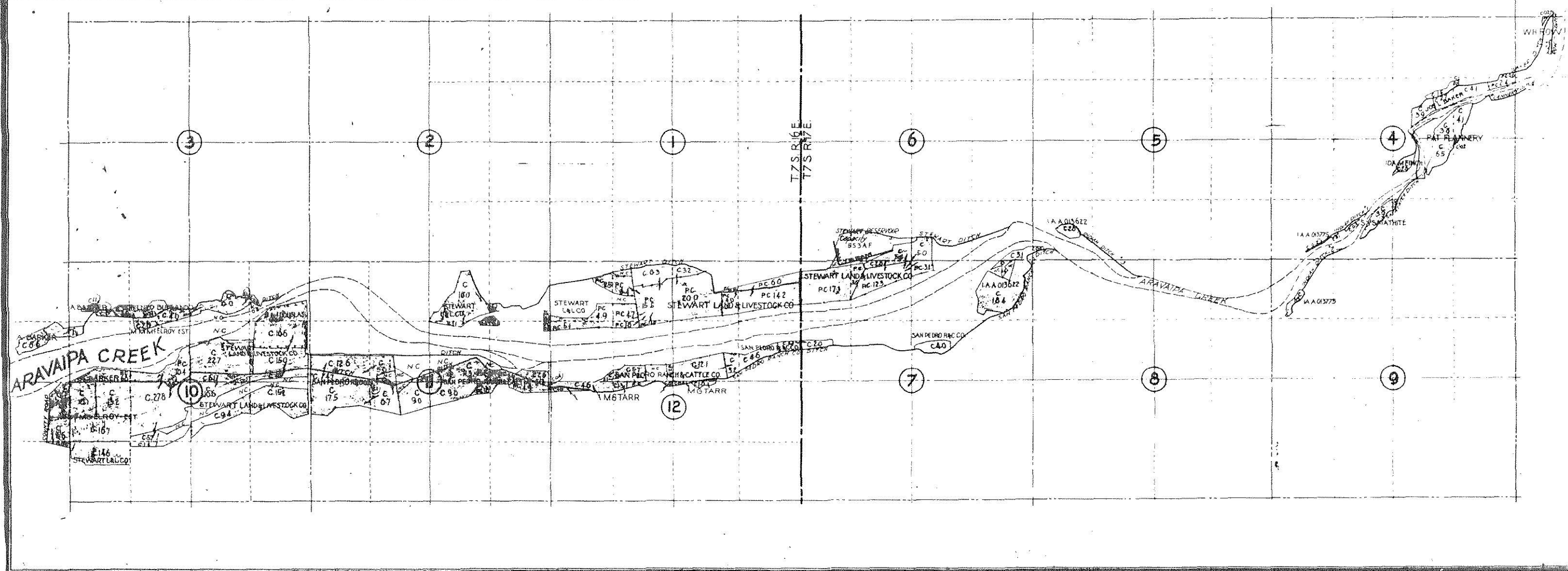
LEGEND

Cultivated Land
Previously cultivated Land
Never cultivated Land
Land served from second canal above
Land served from two canals
Land served by water pumped from canal
Artesian Well
Soft Gage
Railroad Track
Fence Line

C

PC

NC



Section 3, T7S, R17E

S 34 T 6S R 17E

300-29

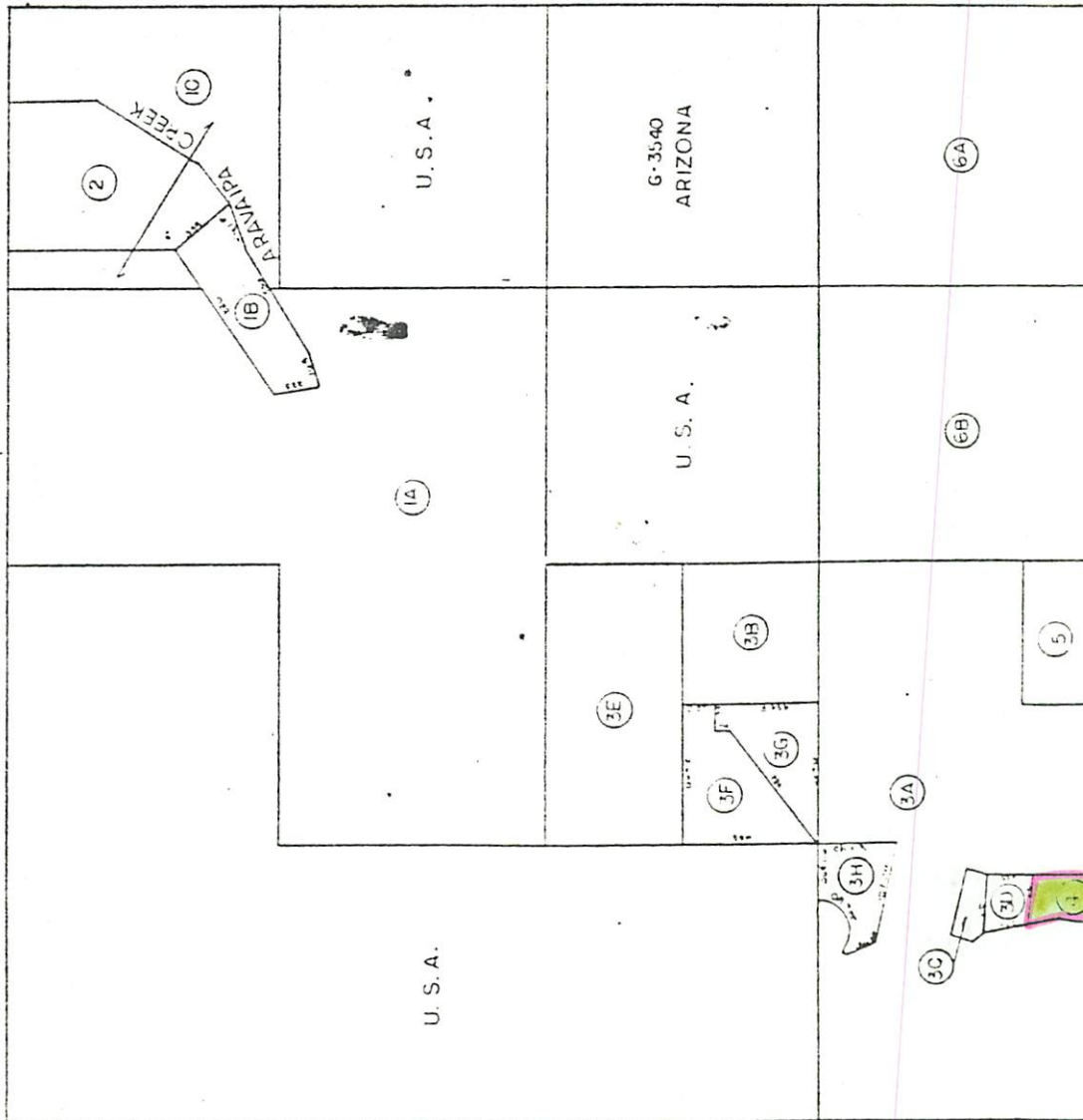
ATTACHMENT C



SCALE 1" = 600'

SEE MAP 300-28

SEE MAP 300-28



SEE MAP 300-28

SEE MAP 300-41

ATTACHMENT D



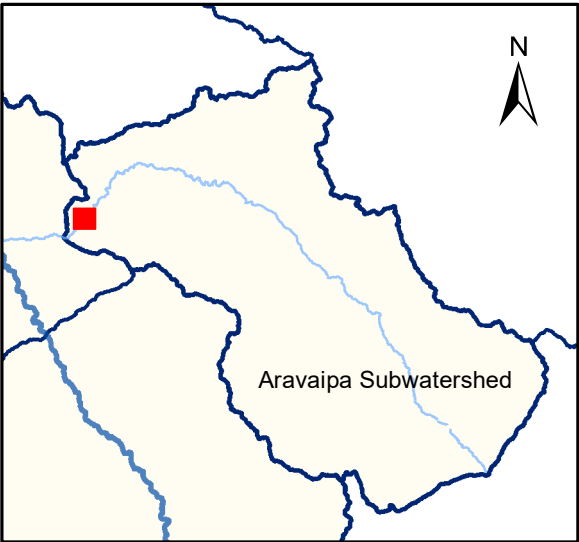
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

In re Bowers
Contested Case W1-11-3318
Watershed File Report
115-04-ADB-009

T6S R17E Section 34 &
T7S R17E Section 3



ADWR May 2018



Legend

- Instream Pump
- Well
- Subflow Zone
- Pinal County Parcels
- Section

